

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

A.L.,[†]

Appellant.

No. 38255-5-II

UNPUBLISHED OPINION

Houghton, J.—A.L. appeals her adjudication of guilt for second degree burglary.¹ She argues that the juvenile court abused its discretion in admitting a criminal trespass notice under the business records hearsay exception. We affirm.²

FACTS

On May 31, 2008, in the Puyallup Macy's store, security personnel observed A.L., another juvenile, and an adult woman attempt to shoplift clothing. By amended information, the State charged A.L. with second degree burglary and third degree theft.³

[†] In order to protect the confidentiality interests of the appellant, we change the title of this case to use the appellant's initials. RAP 3.4.

¹ A.L. does not appeal her adjudication of guilt for third degree theft.

² A commissioner of this court initially considered A.L.'s appeal as a motion on the merits under RAP 18.14 and then transferred it to a panel of judges.

³ A.L. was also charged with unlawful possession of a controlled substance, methamphetamine, of which she was found not guilty.

At A.L.'s trial, the State offered a criminal trespass notice informing her that she had been "trespassed" at the Tacoma Mall Macy's store on October 23, 2007, and was not permitted to enter any Macy's store for one year. A.L. objected on hearsay grounds. After the juvenile court asked the State to lay a foundation, it queried the Puyallup Macy's security officer about the notice. The juvenile court concluded that the criminal trespass notice fell within the business records hearsay exception, RCW 5.45.020, and admitted it. The juvenile court found A.L. guilty of second degree burglary and she appeals.

ANALYSIS

A.L. contends that the trial court erred in admitting the criminal trespass notice. She asserts that the security guard, who testified about the notice, lacked qualifications to do so.

Under RCW 5.45.020,

A record of an act, condition or event, shall in so far as relevant, be competent evidence if the custodian or other qualified witness testifies to its identity and the mode of its preparation, and if it was made in the regular course of business, at or near the time of the act, condition or event, and if, in the opinion of the court, the sources of information, method and time of preparation were such as to justify its admission.

See also ER 803(a)(6).

We review the trial court's admission of business records for an abuse of discretion. *State v. Iverson*, 126 Wn. App. 329, 336, 108 P.3d 799 (2005). A trial court abuses its discretion when it bases its decision on untenable or unreasonable grounds. *State v. Quincy*, 122 Wn. App. 395, 398-99, 95 P.3d 353 (2004). The person who created the record need not be the person who provides the foundation for its admission under RCW 5.45.020. *Quincy*, 122 Wn. App. at 399. One who has custody of the record as a regular part of her work or has supervision of its creation

may properly introduce the record. *Iverson*, 126 Wn. App. at 338.

A.L. argues that that the security officer was not a qualified witness under RCW 5.45.020 because (1) the security officer worked at the Puyallup Macy's whereas the criminal trespass notice was issued at the Tacoma Mall Macy's; (2) the security officer did not have custody of the criminal trespass notice issued at the Tacoma Mall Macy's; and (3) the security officer did not have knowledge that the Tacoma Mall Macy's issued the criminal trespass notice to A.L. in the regular course of business. A.L.'s argument does not persuade us.

The security officer testified that (1) Macy's Northwest, of which both the Puyallup Macy's and the Tacoma Mall Macy's were a part, used the same criminal trespass notice form; (2) the procedure provides for the detaining officer to fill out the form and that store keeps the notice; (3) that she or one of her colleagues obtained a copy of A.L.'s criminal trespass notice from the Tacoma Mall Macy's; and (4) that process occurred in the normal course of business.

Accordingly, the juvenile court did not abuse its discretion in concluding that this testimony formed a sufficient foundation to admit A.L.'s criminal trespass notice under RCW 5.45.020.

Affirmed.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record pursuant to RCW 2.06.040, it is so ordered.

Houghton, J.

We concur:

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Bridgewater, J.

Van Deren, C.J.